

Application of the Postal Directive (Directive 97/67/EC as amended by Directive 2002/39/EC)

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PURPOSE : to present a report from the Commission on the application of the Postal Directive (Directive 97/67/EC as amended by Directive 2002/39/EC).

CONTENT : this report is a follow-up to the first Commission Report on the Application of Postal Directive 97/67 which was submitted at the end of 2002. It confirms that, in sum, the reform of the postal sector in the EU is well on track. Though not yet completed, it has already resulted in a number of significant improvements notably as regards quality of services, improved business efficiency, and the separation of regulators from operators. The role of postal services remains vital in delivering the benefits of the Internal Market to citizens, consumers and business.

The transposition of the Community framework is now largely complete although there are still some problems which affect in particular a number of the new Member States. However, transposition is merely the first step in the process of full implementation of the Community framework. The practical implementation of some of the more complex regulatory requirements of the Postal Directive (tariff control, transparency of accounts, authorisation and licensing) still requires further efforts and attention from Member States and the Commission.

In addition, there have been significant regulatory developments in the EU, which go beyond the transposition and application of the EU regulatory framework, with some NRAs taking the lead in introducing new approaches on key issues such as price control, access pricing and licensing. The framework harmonisation nature of the Directive has thus provided possibilities for Member States to pursue distinctive paths.

Broadly speaking, the postal market has continued to move towards a one way distribution market and away from the more traditional two way communications model. If this trend continues into the future, there may be the need to review the modalities of the current universal service obligations, with a view to allow for some additional flexibility while continuing to guarantee consumer rights. This trend also highlights the potential for developing a dynamic postal market which can exploit opportunities in the wider communication market (home shopping, e-commerce, hybrid mail and value added services)

in the interest of all customers.

However, competition has yet to develop in the addressed mail market segment outside niche services, and this suggests that limited initial market opening combined with sometimes limited regulatory capacity or certainty, advantages enjoyed by incumbents, and regulatory asymmetries have all combined to deter entry.

Among these regulatory asymmetries, the different tax liabilities faced by incumbents and market entrants as regards VAT is of particular concern.

There are indications that the absence of competition has also affected the pace of the modernisation of the sector. One such indication is the differing infrastructural costs across Member States. Similarly, regulatory asymmetry and the continued protection for incumbents have affected mail market development.

The Postal Directive has created an expectation of further market opening, which would have a positive impact on the market. As noted from the analysis above, the postal market is at a crucial stage in its development. Further steps are needed to promote actual competition in the market, while addressing the end-consumer concerns, as well as much needed innovations in order to promote continued market developments of the postal sector in the wider and quickly evolving communication market.

- Facilitate the conditions for further modernisation: the postal market is evolving quickly. The clear challenge for regulators and operators is to seize the opportunities. Postal organisations are becoming increasingly flexible in the provision of tailored services to clients.

- Respect the timetable set in the Directive: developments to date provide no evidence supporting the need for a change of the deadlines set out in the Postal Directive.

- Monitor carefully regulatory developments: on critical issues, such as market opening, universal service (quality of services, prices, accessibility from the perspective of the various stakeholders categories) the Commission will carefully monitor developments, and where appropriate take the necessary steps to ensure that Member States meet the requirements set out in the Postal Directive.

- Intensify cooperation on regulatory issues: the Commission intends to assist NRAs by working on two levels : bilateral co-operation between the services of the Commission and the NRA, and notably

with the new Member States and technical cooperation at the European level within the framework of the Postal Directive Committee in order to assist the Commission in developing appropriate benchmarking together with national regulators.

- Promote an in depth debate on the future postal policy: in addition to analysing the merits of retaining or removing the reserved area, the debate will need to address key issues such as how to best promote the postal sector, how to ensure the financing of the universal service, and what kind of postal universal service is needed in the future. It will also be necessary to assess the situation in the Member States where the reserved services have been removed, including from an end-consumer perspective.

With this in mind, the Commission is launching two studies, on the development of competition and the evolution of the regulatory model for European postal services. Towards the end of 2005, the Commission will launch the study on the impact on universal service of the full accomplishment of the postal internal market. Stakeholders will be consulted in the same manner as outlined above. Extensive debate will pave the way for the development of the future of postal sector policy.